

Message Text

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SUBJECT: PARSKY DEC 29 LETTER TO ABA AL-KHAYL:
PERFORMANCE GUARANTEES VS. SURETY BONDS

1. FOLLOWING IS TEXT OF PARSKY-ABA AL-KHAYL LETTER OF
DECEMBER 29, QUOTE: AS PROMISED DURING OUR RECENT
CONVERSATION ON SAUDI CONTRACTING REQUIREMENTS, I AM
FORWARDING YOU A COPY OF TREASURY'S LIST OF "SURETY
COMPANIES ACCEPTABLE ON FEDERAL BONDS" AND A DESCRIPTION
OF THE ADVANTAGES OF UTILIZING A SURETY BONDING SYSTEM.

AS YOU ARE AWARE, U.S. BANKING LAWS AND CONTRACTING
PRACTICES POSE DIFFICULTIES FOR U.S. FIRMS IN THEIR
EFFORTS TO MEET THE REQUIREMENTS ON LARGE SAUDI ARABIAN
GOVERNMENT CONTRACTS. PRESENTLY, A U.S. CONTRACTOR MUST
UTILIZE ITS CREDIT LINES FROM BANKS UNDER A LETTER OF
CREDIT ARRANGEMENT IN ORDER TO CONFORM TO THE SAUDI
ARABIAN PERFORMANCE GUARANTEE REQUIREMENTS. IN ADDITION
TO TYING UP CREDIT, IT IS COSTLY BECAUSE THE U.S.

COMPANIES ARE REQUIRED TO PAY FOR TWO LETTERS OF CREDIT

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AND IT IS SOMEWHAT RISKY BECAUSE OF THE "ON-DEMAND"

NATURE OF THE PERFORMANCE GUARANTEE.

HOWEVER, A SURETY BONDING SYSTEM IN LIEU OF THE PRESENT SAUDI REQUIREMENTS OF A PERFORMANCE GUARANTEE WOULD ALLEVIATE THESE PROBLEMS. IN MY JUDGMENT THERE WOULD BE SEVERAL ADVANTAGES FOR SAUDI ARABIA IN USING A SURETY BONDING SYSTEM.

1. A SURETY BOND WOULD NOT BE CHARGED AGAINST A U.S. CONTRACTOR'S BANKS LINE OF CREDIT THEREBY MAKING A TRANSACTION IN SAUDI ARABIA MORE ATTRACTIVE.
2. THE SURETY BOND CAN COVER UP TO ONE HUNDRED PER CENT OF THE CONTRACT PRICE AS COMPARED TO SAUDI ARABIA'S EXISTING TEN PER CENT PERFORMANCE GUARANTEE.
3. SINCE A SURETY COMPANY HAS RECOURSE ONLY TO THE U.S. COMPANY IF IT FAILS TO PERFORM, THE SURETY COMPANY PREQUALIFIES THE CONTRACTOR THROUGH AN IN-DEPTH ANALYSIS OF THE FIRM'S FINANCIAL CONDITION, MANAGEMENT CAPABILITY, AND PAST PERFORMANCE.
4. SURETY BONDING COMPANIES CAN HELP ORGANIZE A CONSORTIUM TO QUALIFY FOR BIDDING ON LARGE CONTRACTS.
5. SURETY COMPANIES OFTEN HELP PREVENT DEFAULTS BY PROVIDING FINANCIAL ASSISTANCE TO CONTRACTORS.
6. SURETY PERFORMANCE BONDS INDEMNIFY FOR EXCESS COSTS, INCLUDING COSTS OF ADMINISTERING CLAIMS.

THE MAJOR DISADVANTAGE TO SAUDI ARABIA IN USING THE SURETY BONDING SYSTEM WOULD BE THAT THERE IS NO "ON-DEMAND" PAYMENT FOR A DEFAULT. A SURETY WOULD ALSO NECESSITATE THE USE OF AN INTERNATIONAL ARBITRATION PROVISION. I BELIEVE THAT THESE DISADVANTAGES ARE OUTWEIGHED BY THE ADVANTAGES OF A SURETY-BONDING PROCEDURE.

IN JANUARY, I PLAN TO MEET WITH A TASK FORCE OF SEVERAL TOP-LEVEL GOVERNMENT AND INDUSTRY LEADERS TO DISCUSS LIMITED OFFICIAL USE

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THE CONTRACTING PROBLEM AND WILL PROVIDE YOU WITH A MORE SPECIFIC REPORT AFTER THAT MEETING.

IF YOU AGREE, I SUGGEST THAT TREASURY LEAD A JOINT U.S. GOVERNMENT/PRIVATE INDUSTRY TASK FORCE TO SAUDI ARABIA EARLY NEXT YEAR TO DISCUSS WITH MINISTRY OF FINANCE OFFICIALS AND OTHER SAUDI AGENCIES WHICH YOU DETERMINE APPROPRIATE TO DISCUSS THE TECHNICAL ASPECTS OF

CONTRACTING, AND POSSIBLE SOLUTIONS TO OUR PROBLEM OF

GETTING THE BEST U.S. COMPANIES TO ASSIST SAUDI ARABIA
IN ITS ECONOMIC DEVELOPMENT. PLEASE LET ME KNOW IF THIS
IDEA MEETS WITH YOUR APPROVAL.

I LOOK FORWARD TO SEEING YOU SOON AT THE SECOND
SESSION OF THE JOINT COMMISSION. SINCERELY, GERALD
L. PARSKY. UNQUOTE. KISSINGER

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